

Samuel A. Schwartz, Esq.  
Nevada Bar No. 10985  
saschwartz@nvfirm.com  
Bryan A. Lindsey, Esq.  
Nevada Bar No. 10662  
blindsey@nvfirm.com  
SCHWARTZ LAW, PLLC  
601 East Bridger Avenue  
Las Vegas, NV 89101  
Telephone: 702.385.5544  
Facsimile: 702.442.9887

*Proposed Attorneys for the Debtor*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:	)	Case No.: 22-14422-NMC
	)	
MUSCLEPHARM CORPORATION,	)	Chapter 11
	)	
	)	
Debtor.	)	
	)	
	)	

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME  
TO HEAR DEBTOR'S FIRST DAY MOTIONS**

MusclePharm Corporation, the debtor and debtor-in-possession in the above-referenced Chapter 11 case (“**Debtor**”), by and through its proposed counsel of record, Schwartz Law, PLLC, hereby files this *ex parte* application (the “**Application**”) for an order shortening time to hear the following first day motions (collectively, the “**First Day Motions**”):<sup>1</sup>

1        *Motion for an Order Authorizing Maintenance of Existing Bank Accounts, Merchant Processing Accounts, and Related Relief* [ECF No. 13]; and

///

<sup>1</sup> Unless otherwise indicated, all chapter and section references are to the Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “**Bankruptcy Code**”). All references to a “**Chapter**” or “**Section**” shall be to the Bankruptcy Code. “**Bankruptcy Rule**” references are to the Federal Rules of Bankruptcy Procedure 1001-9037. “**Civil Rule**” references are to the Federal Rules of Civil Procedure 1-86. “**Local Rule**” or “**LR**” references are to the Local Rules of Bankruptcy Practice of the United States Bankruptcy Court, District of Nevada.

2 *Debtor's Motion for Entry of an Order (I) Authorizing, but Not Directing,*  
*Debtor to Pay, Inter Alia, Prepetition Employee Wages and (II) Granting*  
*Related Relief* [ECF No. 14].

3 This Application is made and based on Bankruptcy Rule 9006 and Local Rule 9006, the  
 4 accompanying points and authorities set forth below, the contemporaneously filed Declaration of  
 5 Bryan A. Lindsey, Esq. (the "**Lindsey Declaration**") in support hereof and Attorney Information  
 6 Sheet, and all pleadings and papers and other records contained in this Court's file, judicial notice  
 7 of which is respectfully requested.

### 8 **LEGAL ARGUMENT**

9 Section 105 of the Bankruptcy Code allows this Court to issue such orders as are necessary  
 10 to carry out the provisions of this title. Bankruptcy Rule 9006(c)(1) permits a bankruptcy court, for  
 11 cause shown and, in its discretion, to reduce the period during which any notice is given in  
 12 accordance with the bankruptcy rules. Bankruptcy Rule 9006(c)(1) provides as follows:

13 Except as provided in paragraph (2) of this subdivision, when an act is  
 14 required or allowed to be done at or within a specified time by these  
 15 rules or by a notice given thereunder or by order of court, the court for  
 16 cause shown may in its discretion with or without motion or notice order  
 the period reduced.

17 Fed. R. Bankr. P. 9006(c)(1).

18 The operative section of the Bankruptcy Code's rules of construction set forth in 11 U.S.C.  
 19 § 102(1) define the phrase "after notice and a hearing," or similar phrases used throughout the  
 20 Bankruptcy Code and Bankruptcy Rules as follows:

21 (A) ... after such notice as is appropriate in the particular circumstances,  
 22 and such opportunity for a hearing as is appropriate in the particular  
 23 circumstances; but (B) authorizes an act without an actual hearing if  
 24 such notice is given properly and if – (i) such a hearing is not requested  
 timely by a party in interest; or (ii) there is insufficient time for a hearing  
 to be commenced before such an act must be done, and the court  
 authorizes such an act.

25 11 U.S.C. § 102(1); *see also* Fed. R. Bankr. P. 9001 (making the Bankruptcy Code's rules of  
 26 construction applicable to the Federal Rules of Bankruptcy Procedure).

27 Relief under Bankruptcy Rule 9006(c)(1) is committed to the Court's discretion. *See, e.g.,*  
 28

1 *In re Phila. Newspapers, LLC*, 690 F.3d 161, 171 (3d Cir. 2012). “In exercising that discretion, [the  
2 Court] should consider the prejudice to parties entitled to notice and weigh this against the reasons  
3 for hearing the motion on an expedited basis.” *Id.*

4 Local Rule 9006 provides further authority for shortening the time for a hearing. According  
5 to Local Rule 9006(b), every application for an order shortening time must be accompanied by a  
6 declaration stating the reasons for an expedited hearing. As set forth in the Lindsey Declaration,  
7 there are compelling reasons for an expedited hearing on the motions identified above. The Debtor  
8 is requesting that the First Day Motions be heard on shortened time as such approval is necessary  
9 to prevent disruption of the Debtor’s business operations and to ensure a smooth transition into  
10 Chapter 11.

11 WHEREFORE, the Debtor respectfully submits that cause exists both under 11 U.S.C.  
12 § 102(1) and under Bankruptcy Rule 9006(c)(1) to grant the relief requested herein, and  
13 respectfully prays that the Court set an emergency hearing on the First Day Motions at the Court’s  
14 earliest convenience.

15 A proposed form of Order granting the Application is attached hereto as **Exhibit 1**.

16 Dated: December 27, 2022.

17 SCHWARTZ LAW, PLLC

18 By: /s/ Bryan A. Lindsey  
19 Samuel A. Schwartz, Esq.  
20 Nevada Bar No. 10985  
21 Bryan A. Lindsey, Esq.  
22 Nevada Bar No. 10662  
23 601 East Bridger Avenue  
24 Las Vegas, NV 89101

25 *Proposed Attorneys for the Debtor*  
26  
27  
28

# EXHIBIT 1

Samuel A. Schwartz, Esq.  
Nevada Bar No. 10985  
saschwartz@nvfirm.com  
Bryan A. Lindsey, Esq.  
Nevada Bar No. 10662  
blindsey@nvfirm.com  
SCHWARTZ LAW, PLLC  
601 East Bridger Avenue  
Las Vegas, NV 89101  
Telephone: 702.385.5544  
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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:	)	Case No.: 22-14422-NMC
	)	
MUSCLEPHARM CORPORATION,	)	Chapter 11
	)	
	)	
Debtor.	)	Hearing Date:
	)	Hearing Time:
_____	)	

**EX PARTE ORDER SHORTENING TIME**

THIS MATTER having come before the Court on the *ex parte* application for order shortening time to hear the following first day motions (collectively, the “**First Day Motions**”) filed by MusclePharm Corporaiton, the debtor and debtor-in-possession in the above-referenced Chapter 11 case (the “**Debtor**”):

1. *Motion for an Order Authorizing Maintenance of Existing Bank Accounts, Merchant Processing Accounts, and Related Relief* [ECF No. 13]; and

2. *Debtor's Motion for Entry of an Order (I) Authorizing, but Not Directing, Debtor to Pay, Inter Alia, Prepetition Employee Wages and (II) Granting Related Relief* [ECF No. 14].

**IT IS HEREBY ORDERED** that the hearing on the above-listed First Day Motions, filed on December 27, 2022, will be held before the Honorable United States Bankruptcy Judge Natalie M. Cox, in the Foley Federal Building, 300 Las Vegas Blvd South, Las Vegas, NV 89101, on \_\_\_\_\_, at the hour of \_\_\_\_\_; and

**IT IS FURTHER ORDERED** that any responses or oppositions to the First Day Motions shall be due on or before \_\_\_\_\_; and

**IT IS FURTHER ORDERED** that any replies to any responses or oppositions shall be due on or before \_\_\_\_\_. Hearing participation will be by remote videoconference and/or teleconference. Remote participation information may be found on the posted calendar on the Court's website at [www.nvb.uscourts.gov/calendars/court-calendars](http://www.nvb.uscourts.gov/calendars/court-calendars).

Parties are permitted to appear telephonically by dialing **(669) 254-5252** and entering meeting ID (if applicable): **161 166 2815** and entering access code or passcode **115788#**.

**IT IS SO ORDERED.**

Respectfully Submitted,

SCHWARTZ LAW, PLLC

By: /s/ Bryan A. Lindsey  
Samuel A. Schwartz, Esq.  
Nevada Bar No. 10985  
Bryan A. Lindsey, Esq.  
Nevada Bar No. 10662  
601 East Bridger Avenue  
Las Vegas, NV 89101

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